

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

LARRY G. MCPHERSON, JR.,

Plaintiff,

v.

GALIPEAU,

Defendant.

CAUSE NO. 3:22-CV-1044-DRL-MGG

OPINION & ORDER

Larry G. McPherson, Jr., a prisoner without a lawyer, was granted leave to proceed against Warden John Galipeau of the Westville Correctional Facility in his official capacity for injunctive relief related to his ongoing need for protection from other inmates as required by the Eighth Amendment. ECF 4. The Warden has filed a motion to dismiss the lawsuit because Mr. McPherson is no longer incarcerated at the Westville Correctional Facility. ECF 27. The Warden has provided evidence in the form of an affidavit and supporting documents that Mr. McPherson was released to parole on June 14, 2023, to the New Castle Parole District. *See* ECF 28-1 & ECF 28-2. Mr. McPherson has not filed a response, and the time to do so has passed.

“If a prisoner is transferred to another prison, his request for injunctive relief against officials of the first prison is moot unless he can demonstrate that he is likely to be retransferred.” *Higgason v. Farley*, 83 F.3d 807, 811 (7th Cir. 1996); *see also Brown v. Bartholomew Consol. Sch. Corp.*, 442 F.3d 588, 596 (7th Cir. 2006) (“For a case to be justiciable, a live controversy must continue to exist at all stages of review, not simply on

the date the action was initiated. . . . In an action seeking only injunctive relief, this requirement ordinarily means that, once the threat of the act sought to be enjoined dissipates, the suit must be dismissed as moot.”) (internal citations omitted).

For these reasons, the court:

- (1) GRANTS the motion to dismiss (ECF 27);
- (2) DISMISSES this action as moot; and
- (3) DIRECTS the clerk to close this case.

SO ORDERED.

July 31, 2023

s/ Damon R. Leichty
Judge, United States District Court